

EXHIBITS TO PLAINTIFF'S REPLY TO WORTHPOINT'S OPPOSITION TO PLAINTIFF'S MOTION TO RECONSIDER

EXHIBIT # 1 Nov. 23, 2022 Conference Call transcript page 64.

#1 Nov. 23, 2022 Conference Call transcript page 65.

EXHIBIT # 2 Nov. 23, 2022 email to Dr. Joseph Scelsa availability for expert report.

EXHIBIT # 3 Defendants' Nov. 23, 2023 email unknown coding - Source Information.

EXHIBIT # 4 Original Electronic Message Print out Adam Bialek Nov. 23, 2022 email.

EXHIBIT # 5 EBay phone Transcript page 19 1972 oil painting sale was an UNDEFINED

EXHIBIT # 6 Nov. 23, 2022 Conference Call to include pages 4 thru 21

EXHIBIT #7 WP000130 stating March 5, 2013 was the date the 1972 post

EXHIBIT #8 Rosen vs Terapeak, infringing items WorthPoint's on March, 5,2013"

EXHIBIT #9 A WP000120 Temporal Google Removal on March 3, 2016

EXHIBIT #10 B WP000134 Google Removal on Jan. 4, 2017

EXHIBIT #11 A-April 8, 2022 request the DMCA agent's name

B Email to Copyright Office May 2022

C WorthPoint Copyright Registration DMCA Agent

D Returned Mail from Gregory Watkins

EXHIBIT #12 A Georgia Lawsuit Process Server False Affidavit —Never asked in Military

B Summons and Complaint with wrong dates and claims

C Motion for Default Judgement filed Oct. 31, 2022

D Proposed Order with Future Dates August 30, 2023 and Sept 29, 2023

E Affidavit by Annamarie Trombetta

F Affidavit by Phone Call Participant Wanda Buncamper

EXHIBIT #13 A Withdrawn Expert Witness Peter Trippi Sept. 22, 2022 Florida Address

#13 B Subpoena Sent to New York Home Peter Trippi Oct.7, 2022

EXHIBIT #14 Plaintiff Print and Script 1972 Signature with Girl Scouts Sash and Badge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
TROMBETTA, : Docket #18cv993
: 1:18-cv-00993-RA-SLC
Plaintiff, :
- against - :
NOVOCIN, et al., : New York, New York
November 23, 2022
Defendants. :
----- : REMOTE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE SARAH L. CAVE,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: ANNAMARIE TROMBETTA, PRO SE
175 East 96th Street, Apartment 12R
New York, New York 10128
For Defendant - WILSON ELSER MOSKOWITZ EDELMAN &
WorthPoint Corporation: DICKER, LLP
BY: ADAM BIALEK, ESQ.
NICOLE HAIMSON, ESQ.
150 East 42nd Street
New York, New York 10017

Transcription Service: Carole Ludwig, *Transcription Services*
155 East Fourth Street #3C
New York, New York 10009
Phone: (212) 420-0771
Email: Transcription420@aol.com

Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

Nov. 23 2023 EXHIBIT #1 64

1

2 defendants to please order a transcript of today's
3 conference. Ms. Trombetta, is there anything else you
4 wanted to raise today?

5 THE PLAINTIFF: It has been a full day. So
6 because I'm dealing with other people, meaning the
7 expert witnesses, and we're approaching the holiday
8 season, if for some reason they cannot submit a report
9 by December 12th, what --

10 THE COURT: You need to make --

11 THE PLAINTIFF: Can I ask for an extension for
12 them?
[REDACTED]

13 THE COURT: Yes.
[REDACTED]

14 MR. DUFF: Your Honor, we object, this is
15 Anderson for defendants --

16 THE COURT: I know --

17 MR. DUFF: I'm sorry?

18 THE COURT: I know, but she can make an
19 application and I'll --
[REDACTED]

20 MR. DUFF: Okay, yes, Your Honor, thank you.

21 THE COURT: I'm not going to prejudge it, but
22 because it sounded like a hypothetical, so maybe we
23 won't. You also have a deadline to file your motion
24 for leave to amend and your proposed amended complaint
25 on December 12th, Ms. Trombetta.

EXHIBIT #12
65

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THE PLAINTIFF: I understand, thank you for
the reminder, Your Honor.

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THE COURT: All right, anything else then from
you, Ms. Trombetta?

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THE PLAINTIFF: Well I might add this to
propose the idea of a settlement conference, is that
something that the defendants would be interested in
at this time?

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THE COURT: Mr. Duff, I'll start with you?

MR. DUFF: Your Honor, my clients are not

interested in a settlement conference, we've already
had several in this case and I know the Court has bent
over backwards trying to accommodate settlement

conferences. Every time we do that it just extends the
inevitable conclusion of this case and the

plaintiff's, the plaintiff's valuation of this case is

just so far away from our client's valuation of this

case that we do not believe a settlement conference

would be, it would just be a waste of our client's

resources and it would further delay the conclusion of

this case. Thank you, Your Honor.

THE COURT: Okay, Ms. Haimson, what's your
client's position?

MS. HAIMSON: Yeah, we echo the same



EXHIBIT

Annamarie Trombetta <artofannamarie@gmail.com>

Annamarie Trombetta

#2

Annamarie Trombetta <artofannamarie@gmail.com>
To: scelsa/joseph <jvscelsa@italianamericanmuseum.org>

Wed, Nov 23, 2022 at 1:15 PM

Hello Dr. Scelsa,

I wanted to wish you a Happy Thanksgiving . I also wanted to touch base with you about my case.

At the end of the Conference Call today I mentioned a Settlement Conference to the Judge and both Defendants declined any offers.

I also stated to the Judge that the Expert witness reports which are due on December 12, 2022 but that with the Holiday Season this may not be possible.

I have to make an application to the Court for an extension.

When you can please call me to discuss the production of the report.

With Appreciation,
Annamarie Trombetta
Tel (212) 427-5990

EXHIBIT #3

NOVEMBER 23, 2022

SOURCE INFORMATION

EMAIL

EXHIBIT

Gmail - Email



#3 A

Annamarie Trombetta <atrombettaart@gmail.com>

Email

Bialek, Adam <Adam.Bialek@wilsonelser.com>

Wed, Nov 23, 2022 at 11:33 AM

To: Annamarie Trombetta <annamarietrombettalegal@outlook.com>, Annamarie Trombetta <atrombettaart@gmail.com>, "ajd@hoganduff.com" <ajd@hoganduff.com>, "ajd@andersonjduff.com" <ajd@andersonjduff.com>

Cc: "Farmer, Jana S." <Jana.Farmer@wilsonelser.com>, "Haimson, Nicole" <Nicole.Haimson@wilsonelser.com>

Here is the Source Information from the email that I was able to capture. Being sent as a courtesy.

<html><head>

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</head><body><div dir="ltr"><br><div class="gmail_quote">----- Forwarded message -----<br>From:
<b class="gmail_sendername">eBay</b> <span dir="ltr">&lt;a href="mailto:ebay@ebay.com">eb
ay@ebay.com</a>&gt;</span><br>Date: Sat, Dec 1, 2012 at 9:54 PM<br>Subject: Your eBay item sold!
1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz (330833102936)
<br>To: <a href="mailto:ebay@novocin.com">ebay@novocin.com</a><br><br><br><div><div id="m_
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<span style="font-weight:bold;font-size:xx-small;font-family:verdana,sans-serif;color:#666"><b>eBay sent
this message to Norb & Marie Novocin (estateauctionsinc).</b><br></span><span style="font-size:xx-
small;font-family:verdana,sans-serif;color:#666">Your registered name is included to show this message
originated from eBay. <a href="http://pages.ebay.com/help/confidence/name-userid-emails.html"
target="_blank">Learn more</a>.</span></td></tr></tbody></table></td></tr></tbody></table></div></div>
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2px 0 2px 0">Congratulations, your item sold!</span></td><td width="8" valign="top" align="right"></td></tr><tr><td
style="background-color:#fc0" colspan="3" height="4"></td></tr></tbody></table></div></div><div id="m_
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estateauctionsinc,<table border="0" cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td></td></tr></tbody></table>You did it! Your
item sold. Please ship this item to the buyer after your buyer pays. As soon as your buyer pays, print your
eBay shipping label.<table border="0" cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td></td></tr></tbody></table><div>Complete one
of the following:<br><ul style="list-style-type:disc;margin:10px 10 10 14px"><li><a
href="http://rover.ebay.com/rover/0/e12011.m354.l1337/7?euid=45d0df16f2ea40759d3656f834970b
06&loc=http%3A%2F%2Fpayments.ebay.com%2Fws%2FEBayISAPI.dll%3FPrintPostage%
26transactionid%3D0%26itemid%3D330833102936%26ssPageName%
3DADME%3AL%3AEOISSA%3AUS%3A1337" target="_blank">Print a shipping label</a> Avoid a trip to
the post office, print and pay for your label at home. Printing shipping labels on eBay also offers you
reduced pricing on some shipping services, and when you print shipping labels on eBay, your tracking
information is uploaded automatically.</li><li><a href="http://rover.ebay.com/rover/0/e12011.m354.l1663/7?
euid=45d0df16f2ea40759d3656f834970b06&loc=http%3A%2F%2Fpayments.ebay.com%2Fws%
2FEBayISAPI.dll%3FAddTrackingNumber%26flow%3Dmyebay%26LineID%
3D330833102936_0%26ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1663"
target="_blank">Provide shipping and tracking information</a>. When you upload tracking information to
eBay, we'll send it to your buyer and let them know the item is on its way. This will save you time, and may
result in fewer questions from buyers and higher detailed seller ratings.</li></ul></div></div>
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Plaintiff000826

4970k
Printed 0000827

Gmail - Email

06&loc=http%3A%2F%2Fmy.ebay.com%2Fws%2FeBayISAPI.dll%3FMyeBay%26CurrentPage%3DMyeBaySold%26ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1121" title="http://rover.ebay.com/rover/0/e12011.m44.l1121/7?euid=45d0df16f2ea40759d3656f834970b06&loc=http%3A%2F%2Fmy.ebay.com%2Fws%2FeBayISAPI.dll%3FMyeBay%26CurrentPage%3DMyeBaySold%26ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1121" target="_blank">
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For other email digest options, go to Notification Preferences in My eBay.
Don't want to receive this email? Unsubscribe from this email.
</div></div></div></div><div id="m_3729392004584666707MarketPlaceSafetyTip"></div><div id="m_3729392004584666707Footer"><div><hr style="HEIGHT:1px"><table border="0" cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td width="100%">Email reference id: [#<wbr>45d0df16f2ea40759d3656f834970b06#]
Please don't remove this number. eBay customer support may ask you for this number, if you should need assistance.</td></tr></tbody></table>
</div><hr style="HEIGHT:1px"><table border="0" cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td width="100%">Learn More to protect yourself from spoof (fake) emails.

eBay sent this email to you at ebay@novocin.com about your account registered on www.ebay.com.

eBay sends these emails based on the preferences you set for your account. To unsubscribe from this email, change your communication preferences. Please note that it may take up to 10 days to process your request. Visit our Privacy Policy and User Agreement if you have any questions.

Copyright © 2012 eBay Inc. All Rights Reserved. Designated trademarks and brands are the property of their respective owners. eBay and the eBay logo are trademarks of eBay Inc. eBay Inc. is located at 2145 Hamilton Avenue, San Jose, CA 95125. </td></tr></tbody></table></div></div></div>
</div></body></html>

Adam Bialek
Attorney at Law
Wilson Elser Moskowitz Edelman & Dicker LLP
150 E 42nd Street
New York, NY 10017
212.915.5143 (Direct)
917.538.0616 (Cell)
212.490.3000 (Main)
212.490.3038 (Fax)
adam.bialek@wilsonelser.com

From: Bialek, Adam
Sent: Thursday, November 17, 2022 1:33 PM
To: Annamarie Trombetta <annamarietrombettalegal@outlook.com>; Annamarie Trombetta <atrombettaart@gmail.com>; ajd@hoganduff.com; ajd@andersonjduff.com

Plaintiff000828

Gmail - Email

Cc: Farmer, Jana S. <Jana.Farmer@wilsonelser.com>; Haimson, Nicole <Nicole.Haimson@wilsonelser.com>

Subject: FW: Email

I note that as of late there has been quite a few emails floating about looking for the complete document regarding the sale of the painting. I just came across this which was exchanged during the deposition of the Novicins. Hopefully, this issue is now resolved and we can start reducing the issues that need to be raised on the call with the Court next week. I suggest that we put together an agenda of items to be addressed with the Court next week and see if we can meet and confer on a resolution of as many as we can.

[Quoted text hidden]

[Quoted text hidden]

EXHIBIT
#3D

Plaintiff000829

EXHIBIT # 4

NOVEMBER 23, 2022

ELECTRONIC ORIGINAL
MESSAGE EMAIL PRINT OUT

SOURCE INFORMATION

EMAIL

Original Message

Message ID	<21BC38C09AD4514693C6FCF2B58A34CE0294D6A097@WILEXCSRVPD10.WEMED.com>
Created at:	Wed, Nov 23, 2022 at 11:33 AM (Delivered after 6 seconds)
From:	"Bialek, Adam" <Adam.Bialek@wilsonelser.com>
To:	Annamarie Trombetta <annamarietrombettalegal@outlook.com>, Annamarie Trombetta <atrombettaart@gmail.com>, "ajd@hoganduff.com" <ajd@hoganduff.com>, "ajd@andersonjduff.com" <ajd@andersonjduff.com>
Subject:	RE: Email
SPF:	PASS with IP 216.71.146.94 Learn more
DKIM:	'PASS' with domain wilsonelser.com Learn more
DMARC:	'PASS' Learn more

[Download Original](#)[Copy to clipboard](#)

Delivered-To: atrombettaart@gmail.com
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Original Message

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dkim=pass header.i=@wilsonelser.com header.s=mailkey
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designates 216.71.146.94 as permitted sender)
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Return-Path: <Adam.Bialek@wilsonelser.com>
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7
for <atrombettaart@gmail.com>
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Wed, 23 Nov 2022 08:33:38 -0800 (PST)
Received-SPF: pass (google.com: domain of
adam.bialek@wilsonelser.com designates 216.71.146.94 as permitted
sender) client-ip=216.71.146.94;
Authentication-Results: mx.google.com;
dkim=pass header.i=@wilsonelser.com header.s=mailkey
header.b=oqZVhQr+;
spf=pass (google.com: domain of adam.bialek@wilsonelser.com
designates 216.71.146.94 as permitted sender)
smtp.mailfrom=Adam.Bialek@wilsonelser.com;
dmarc=pass (p=NONE sp=NONE dis=NONE)
header.from=wilsonelser.com
DKIM-Signature: v=1; a=rsa-sha256; c=simple/simple;
d=wilsonelser.com; i=@wilsonelser.com; q=dns/txt;
s=mailkey; t=1669221217; x=1700757217;
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4=;
Authentication-Results: esa4.wilsonelser.ipmx.com; dkim=none
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Received: from mail1.wilsonelser.com (HELO mymail.wilsonelser.com)
([64.125.236.41])
by esa4.wilsonelser.ipmx.com with ESMTPTLS/ECDHE-RSA-AES256-
SHA384; 23 Nov 2022 11:33:34 -0500
Received: from WILEXCSRVPD10.WEMED.com ([10.254.5.251]) by WE-
EXCCAS-03.WEMED.com ([10.254.5.132]) with mapi id 14.03.0513.000;

```

Original Message

Wed, 23 Nov 2022 11:33:33 -0500
 From: "Bialek, Adam" <Adam.Bialek@wilsonelser.com>
 To: "'Annamarie Trombetta'" <annamarietrombettalegal@outlook.com>,
 "'Annamarie Trombetta'" <atrombettaart@gmail.com>,
 "'ajd@hoganduff.com'" <ajd@hoganduff.com>, "'ajd@andersonjduff.com'"
 <ajd@andersonjduff.com>
 CC: "Farmer, Jana S." <Jana.Farmer@wilsonelser.com>, "Haimson,
 Nicole" <Nicole.Haimson@wilsonelser.com>
 Subject: RE: Email
 Thread-Topic: Email
 Thread-Index: AQHYzdMEL0BVNzcYGkKMc/yBNnULBq5DyZRggAlNAQA=
 Date: Wed, 23 Nov 2022 16:33:32 +0000
 Message-ID:
 <21BC38C09AD4514693C6FCF2B58A34CE0294D6A097@WILEXCSRVPD10.WEMED.com>
 References:
 <BYAPR06MB4277A3A18295214CF5F27E60AB4F9@BYAPR06MB4277.namprd06.prod.
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 <21BC38C09AD4514693C6FCF2B58A34CE0294D3C682@WILEXCSRVPD10.WEMED.com>
 Accept-Language: en-US
 Content-Language: en-US
 X-MS-Has-Attach:
 X-MS-TNEF-Correlator:
 x-wsguid: IMAN-d4a4709ffd0146a6aee3300e1403962f
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 Content-Type: text/plain; charset="us-ascii"
 Content-Transfer-Encoding: quoted-printable

Here is the Source Information from the email that I was able to
 capture. =
 Being sent as a courtesy.

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</head><body><div dir=3D"ltr"><br><div class=3D"gmail_quote">-----
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href=3D"mailto:ebay@ebay.com">ebay@ebay.com</a>&gt;=
</span><br>Date: Sat, Dec 1, 2012 at 9:54 PM<br>Subject: Your eBay
item sol=
d! 1972 Original Oil Painting Man With Red Umbrella Signed Annamarie
Trombe=
tta yqz (330833102936)<br>To: <a
href=3D"mailto:ebay@novocin.com">ebay@novo=
cin.com</a><br><br><br><div><div id=3D"m_3729392004584666707Header">
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align=3D"left" =
valign=3D"bottom"><span style=3D"font-weight:bold;font-size:xx-
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small;font-f=

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Norb &=

; Marie Novocin (estateauctionsinc).
<span

style=3D"font-size=

:xx-small;font-family:verdana,sans-serif;color:#666">Your registered

name i=

s included to show this message originated from eBay. <a

href=3D"http://pag=

es.ebay.com/help/confidence/name-userid-emails.html"

target=3D"_blank">Learn

n more</td></tr></tbody></table></td></tr></tbody>

</table></div>

></div><div id=3D"m_3729392004584666707Title"><div><table

style=3D"backgrou=

nd-color:#ffe680" border=3D"0" cellpadding=3D"0" cellspacing=3D"0"

width=3D=

"100%"><tbody><tr><td width=3D"8" valign=3D"top"><img

src=3D"http://q.ebays=

tatic.com/aw/pics/globalAssets/ltCurve.gif" height=3D"8"

width=3D"8"></td><=

td valign=3D"bottom" width=3D"100%"><span style=3D"font-

weight:bold;font-si=

ze:14pt;font-family:arial,sans-serif;color:#000;margin:2px 0 2px

0">Congrat=

ulations, your item sold!</td><td width=3D"8" valign=3D"top"

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=3D"right"><img

src=3D"http://p.ebaystatic.com/aw/pics/globalAssets/rtCurve=

.gif" height=3D"8" width=3D"8"></td></tr><tr><td

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#fc0" colspan=3D"3" height=3D"4"></td></tr></tbody></table></div>

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ding=3D"2" cellspacing=3D"3" width=3D"100%"><tbody><tr><td><font

style=3D"f=

ont-size:10pt;font-family:arial,sans-serif;color:#000">Dear

estateauctionsi=

nc,<table border=3D"0" cellpadding=3D"0" cellspacing=3D"0"

width=3D"100%"><=

tbody><tr><td><img src=3D"http://q.ebaystatic.com/aw/pics/s.gif"

height=3D"=

10" alt=3D" "></td></tr></tbody></table>You did it! Your item sold.

Please =

ship this item to the buyer after your buyer pays. As soon as your

buyer pa=

ys, print your eBay shipping label.<table border=3D"0"

cellpadding=3D"0" ce=

llspacing=3D"0" width=3D"100%"><tbody><tr><td><img

src=3D"http://q.ebaystat=

ic.com/aw/pics/s.gif" height=3D"10" alt=3D" "></td></tr></tbody>

</table><di=

v>Complete one of the following:
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type:disc;margi=

n:10px 10 10 14px"><a

href=3D"http://rover.ebay.com/rover/0/e12011.m354=

.11337/7?

euid=3D45d0df16f2ea40759d3656f834970b06&loc=3Dhttp%3A%2F%2Fpay=

ments.ebay.com%2Fws%2FEBayISAPI.dll%3FPrintPostage%26transactionid%3

D0%26it=

emid%3D330833102936%26ssPageName%3DADME%3AL%3AEIOISSA%3AUS%3A1337"

target=3D=

"_blank">Print a shipping label Avoid a trip to the post office,

print =

and pay for your label at home. Printing shipping labels on eBay

also offer=

s you reduced pricing on some shipping services, and when you print shippin=

g labels on eBay, your tracking information is uploaded automatically.=

<a href=3D"http://rover.ebay.com/rover/0/e12011.m354.11663/7?euid=3D45d=

0df16f2ea40759d3656f834970b06&loc=3Dhttp%3A%2F%2Fpayments.ebay.com%2Fws=

%2FEBayISAPI.dll%3FAddTrackingNumber%26flow%3Dmyebay%26LineID%3D3308331029=

36_0%26ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1663" target=3D"_blank">Provid=

e shipping and tracking information. When you upload tracking informati=

on to eBay, we'll send it to your buyer and let them know the item is on it=

s way. This will save you time, and may result in fewer questions from buye=

rs and higher detailed seller ratings.<a href=3D"http://rover.ebay=

.com/rover/0/e12011.m354.11662/7?euid=3D45d0df16f2ea40759d3656f834970b06&am=

p;loc=3Dhttp%3A%2F%2Fmy.ebay.com%2Fws%2FEBayISAPI.dll%3FMyEbayBeta%26Curren=

tPage%3DMyEbayNextSold%26ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1662" target=

=3D"_blank">Mark your item as shipped in My eBay. Do this, and we'll le=

t your buyer know the item is on its way. This will save you time, and may =

result in fewer questions from buyers and higher detailed seller ratings.</=

li>You should always <a href=3D"http://rover.ebay.com/rover/0/e12011.m=

354.11332/7?euid=3D45d0df16f2ea40759d3656f834970b06&loc=3Dhttp%3A%2F%2F=

feedback.ebay.com%2Fws%2FEBayISAPI.dll%3FLeaveFeedback%26show_as%3D sold%26=

ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1332" target=3D"_blank">leave feedbac=

k for your buyer to encourage them to buy from you again.

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<div><table width=3D"100%" cellpadding=3D"0" cellspacing=3D"3" borde=

r=3D"0"><tbody><tr><td valign=3D"top" align=3D"center" width=3D"100" nowrap=

=3D""><a href=3D"http://rover.ebay.com/rover/0/e12011.m43.11123/7?euid=3D45=

d0df16f2ea40759d3656f834970b06&loc=3Dhttp%3A%2F%2Fcgi.ebay.com%2Fws%2F=

EBayISAPI.dll%3FViewItem%26item%3D330833102936%26ssPageName%3DADME%3AL%3AEOI=

SSA%3AUS%3A1123" target=3D"_blank"><img src=3D"http://thumbs.ebaystatic.com=

/pict/330833102936.jpg" alt=3D"1972 Original Oil Painting Man With Red Umbr=

ella Signed Annamarie Trombetta yqz" border=3D"0"></td><td colspan=3D"2=

" valign=3D"top"><table width=3D"100%" cellpadding=3D"0" cellspacing=3D"0" =

border=3D"0"><tbody><tr><td style=3D"font-size:10pt;font-family:arial,sans-=

serif;color:#000" colspan=3D"2"><a href=3D"http://rover.ebay.com/rover/0/e1=

2011.m43.11123/7?

EXHIBIT # 6

NOVEMBER 23, 2022

TRANSCRIPT
CONFERENCE CALL

PAGES 4 thru 21

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
TROMBETTA, : Docket #18cv993
: 1:18-cv-00993-RA-SLC
Plaintiff, :
- against - :
NOVOCIN, et al., : New York, New York
: November 23, 2022
Defendants. :
----- : REMOTE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE SARAH L. CAVE,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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WorthPoint Corporation: DICKER, LLP
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Transcription Service: Carole Ludwig, *Transcription Services*
155 East Fourth Street #3C
New York, New York 10009
Phone: (212) 420-0771
Email: Transcription420@aol.com

Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

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2 HONORABLE SARAH L. CAVE (THE COURT): Good
3 morning, this is Magistrate Judge Cave, we're here for
4 a conference in Trombetta versus Novocin --

5 MS. ANNAMARIE TROMBETTA (THE PLAINTIFF): Good
6 morning.

7 THE COURT: (continuing) -- case number
8 18cv993. Good morning, Ms. Trombetta?

9 THE PLAINTIFF: Yes, good morning.

10 THE COURT: All right, good morning. And for
11 defendants, let's start with the Novocin.

12 MR. ANDERSON DUFF: Your Honor, this is
13 Anderson Duff appearing on behalf of defendants Estate
14 Auctions and Norb and Marie Novocin, thank you.

15 THE COURT: Great, good morning. And for
16 WorthPoint?

17 MS. NICOLE HAIMSON: Nicole Haimson with my
18 colleague, Adam Bialek from Wilson Elser on behalf of
19 WorthPoint Corporation.

20 THE COURT: Okay, good morning, and apologies
21 for the delay, my prior conference was trying to fit a
22 lot in before the holiday so I had a lot of issues
23 with the other parties so thank you all for being
24 flexible about the time that we're getting started
25 today.

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2 Okay, so, you know, I have a few letters from
3 the parties and I've been trying very hard to sort of
4 discern what remains. I did get a couple of additional
5 letters from the parties last night and so it seems to
6 me, Ms. Trombetta, that one of the big issues that you
7 were focused on in terms of the productions from the
8 defendants was the complete sales receipt from the
9 eBay auction of the 1972 original oil painting. It
10 seemed like from Mr. Bialek's letter that that
11 complete receipt has now been provided to you, is that
12 the case, Ms. Trombetta?

13 THE PLAINTIFF: It has, I did state that in
14 the November 16th letter that you had requested of me,
15 however, I think it's important as I put in my letter
16 on Monday that the original message or the wrong
17 message, which is the coding for that email, be
18 produced and the reason for my request is that usually
19 with all eBay receipts there is an icon of a square,
20 it almost looks like an old fashioned slide, and the
21 receipts from 2012 from EAI or eBay is absent of that
22 particular icon.

23 THE COURT: Okay, so --

24 THE PLAINTIFF: So why reason for the raw data
25 or the original email, which will have the content in

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2 that receipt as well as the coding for it, and it will
3 just validate that the receipt transference was done.
4 I have --

5 THE COURT: What you have now is just like a
6 PDF version of that receipt?

7 THE PLAINTIFF: That is correct, Your Honor --
8 (interposing) --

9 THE COURT: Hold on, everybody will have a
10 chance to talk, please wait until I call on you. Go
11 ahead, Ms. Trombetta.

12 THE PLAINTIFF: Yeah, thank you. So the
13 defendants, WorthPoint, in particular, requested of me
14 several of those type of printouts. So not only did I
15 print out the PDF, you know, the content, text
16 content, but I also printed out the raw message or the
17 original message which gives you all the text within
18 the tracking and the coding of that email.

19 THE COURT: Okay, are you concerned about,
20 that the PDF is somehow not authentic?

21 THE PLAINTIFF: The production of the original
22 message will validate and verify that conclusively. I
23 am just, I just noticed that in all of my eBay
24 documents there's the icon of the gray square where
25 the image should be and it usually says, you know,

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2 click on to view image. But I did not see that in the
3 PDF. And, again, since that was asked of me and I
4 understand why, then I just would like --

5 THE COURT: There's no dispute that the eBay
6 sale took place, right, that's not disputed?

7 THE PLAINTIFF: Again, the verification of the
8 original or the raw coding and email will conclusively
9 validate that. All I can tell you with most certainty
10 is that I did not paint this image, I have produced my
11 signature --

12 THE COURT: I know.

13 THE PLAINTIFF: And I've also cooperated to an
14 extended amount. I had nothing to do with this.

15 THE COURT: I know, and that goes to the
16 merits of this case, so let me hear from --

17 MS. HAIMSON: Your Honor, may I clarify quick,
18 (indiscernible) was requested in terms of the actual
19 email. So I think plaintiff just explained to the
20 Court that counsel for WorthPoint had requested
21 printouts of emails and that she was seeking basically
22 the equivalent. That's actually inaccurate, what we
23 have requested was essentially the native electronic
24 format of that email which was exactly what we just
25 sent her. We sent her the native electronic format of

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2 that sales receipt. So she has exactly what we are
3 requesting from her and I don't know what she's
4 talking about when she's saying coding, but we have
5 given her the native electronic format of that email.
6 So I don't think there's really anything else to give.

7 THE COURT: Okay. All right, so, Ms.

8 Trombetta, do you have -- Mr. Duff?

9 MR. DUFF: Yes, Your Honor, I just wanted to
10 address this very briefly since this was our
11 production, my client's production. The email that
12 she's talking about, we originally produced in April,
13 April 26th, and it was converted into a PDF and
14 stamped. During the deposition of my clients,
15 WorthPoint's counsel correctly pointed out that there
16 were a few digits that were cut off when it was
17 converted to a PDF on the right-hand side. So while
18 the deposition was happening, I forwarded the raw
19 email, the .eml file, which contains all the metadata,
20 is unstamped, has everything that Ms. Trombetta could
21 want, that was on September 21st. So she's had it
22 since September 21st and she's continued to file these
23 letters with the Court saying that she doesn't have
24 it. And I know that everybody got the email because
25 Adam Bialek recently, as counsel just stated,

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2 recirculated that file. Ms. Trombetta's had this since
3 the raw file, since September 21st, and just to address
4 Ms. Trombetta's concerns I went ahead and reproduced
5 it, restamped it as a PDF that does not cut off an of
6 the information on the right-hand side. So Ms.
7 Trombetta's had this since April.

8 THE COURT: Okay. All right, Ms. Trombetta, do
9 you now have the emails?

10 THE PLAINTIFF: In my letter that I wrote
11 yesterday or maybe the day before, I gave and produced
12 -- no, it was yesterday, examples of what it was that
13 I was looking for. And I had also stated that in the
14 email that was sent from Adam Bialek, when I clicked
15 onto the attachment, the attachment activated my
16 mailbox on the computer, and a drop down menu came up
17 where you have to select either Gmail, Yahoo,
18 whatever. I don't have that system operating. If Mr.
19 Duff sends me the coding of the PDF I would appreciate
20 it if he'd send it to the outlook.com. I cannot open
21 what it is that he, that Mr. Bialek sent.

22 Now I have been asking repeatedly for the full
23 uncut version of the PDF on numerous occasions --

24 THE COURT: He said he sent it to you on
25 September 21st, Ms. Trombetta.

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THE PLAINTIFF: Yes, but on October 31st I sent Mr., well I put this in my letter, on the 29th I sent, which was a Saturday, I sent a sample of the April version of the PDF which was slightly truncated. Then I also sent the deposition pages 74 to 79 of my Mr. Novocin which states that he keeps all his emails. Another thing that I'm requesting is the transaction of the payment. Third, any type of receipt from the buyer which is still missing. This is just basic --

THE COURT: Okay, well it seems to me, Ms. Trombetta, that the defendants have produced to you in several different formats a copy of the receipt that you're asking for and I'm not going to require them to produce anything --

THE PLAINTIFF: Your Honor, I have to disagree. They produced in April the cut, truncated PDF, it's just the printout of the email --

THE COURT: And then he --

THE PLAINTIFF: What I'm requesting physically is the, I have received the full PDF but not the original and raw message of that particular email.

THE COURT: He just said --

THE PLAINTIFF: Secondly, there is no --

THE COURT: Ms. Trombetta, you have to listen

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2 to me. He sent it on September 21st.

3 THE PLAINTIFF: That's what they are saying
4 and I'm telling you that the email that they sent the
5 other day I could not open it. I will send it to
6 another person, I plan on doing that over the weekend,
7 to see if they can open it, but I, personally, cannot
8 open it.

9 THE COURT: Okay --

10 THE PLAINTIFF: They can actually print out
11 all the data, that entire raw message, and scan it and
12 send it to me.

13 MR. BIALEK: Your Honor, if I can, this is
14 Adam Bialek, I just want, I just want to say I sent I
15 to two different email addresses for Ms. Trombetta, I
16 sent it to the annatrombettalegal@outlook.com and then
17 I also sent it to atrombettaart@gmail.com. So it
18 would have gone to two different servers.

19 THE COURT: And that was attaching the native
20 document, correct?

21 MR. BIALEK: That attached the email that I
22 had gotten from Mr. Duff which was, it looks like a
23 January 10, 2017, mail form eBay@novocin.com to Norb
24 Novocin and Marie Novocin that it forwards the
25 December 1, 2012, at 9:54 p.m. email from eBay at

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2 eBay.com to eBay@novocin.com, and that has, that's the
3 original email that they have which has all of the
4 sales price and the buyer's name, buyer's shipping
5 address, et cetera.

6 THE PLAINTIFF: The buyer has not produced any
7 receipts of the transaction of payment, nor have they
8 indicated was it paid by check, PayPal, cash, credit
9 card, that hasn't been produced nor the sales receipt.
10 There's only one document that's been produced and,
11 again, I am asking you, Judge Cave, to have the
12 defendants print out the data and send it to me that
13 way.

14 THE COURT: What data?

15 THE PLAINTIFF: That's what I did in my --

16 THE COURT: Ms. Trombetta --

17 THE PLAINTIFF: (continuing) -- responses, I
18 printed out, I was requested to print out the February
19 20, 2016, email. I printed out the text, the actual
20 email, then I went to the raw message and print out
21 most of the coding. And then after the October 28th
22 meet and confer I figured out a way to export the raw
23 message into a PDF file and I forwarded that to both
24 defendants as requested. I'm just asking for the same
25 type of consideration as I am extending to the

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2 defendants.

3 THE COURT: Is that your exhibit 4 to your
4 letter yesterday, is that the type of raw data that
5 you're talking about?

6 THE PLAINTIFF: Correct, thank you, Your
7 Honor, that's precisely what it is that I'm looking
8 for. I printed out an example of the hard copy which
9 is basically any time you open up an email you get the
10 text or the, you know, the look of the email.

11 THE COURT: Why do you need the data for this
12 email?

13 THE PLAINTIFF: As stated earlier, first and
14 foremost there should be on the PDF an icon of the
15 image in gray where it's highlighted on blue and it
16 says click onto the image. It doesn't have that.
17 Secondly, it's as requested of me as proof this is
18 another verification that the sale took place. The
19 whole case is hinged upon the importance of the proof
20 of the sale because that's how WorthPoint became
21 involved.

22 THE COURT: All right, stop talking for a
23 minute please so I can ask the defendants a question.
24 Ms. Haimson or, well actually let me ask Mr. Duff
25 because I think this is your email --

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2 MR. DUFF: Yes, Your Honor.

3 THE COURT: Are you able to ascertain the data
4 for the email comparable to what appears in exhibit 4
5 to Ms. Trombetta's letter yesterday?

6 MR. DUFF: Your Honor, just to be frank, I
7 have no idea what she means when she says raw data. To
8 the extent she is talking about the email headers
9 which is what you can derive from the raw file which
10 she's had, again, since September 21st, I'm happy to I
11 guess convert to a PDF the email headers which she
12 could do and has been able to do since September. But
13 I'm happy to do that and circulate it. I just want to
14 quickly address the --

15 THE COURT: I think it's something different,
16 Mr. Duff, to be candid, I think -- I think what she's
17 talking about is the metadata for the email and I
18 realize that as a layperson, and I don't know the
19 first thing about this either, but do you have someone
20 in your office who could extract the metadata for the
21 email and then produce it basically like in a PDF?

22 MR. DUFF: Your Honor, I'm not, I guess I'm
23 not sure what that, what that means, but to the extent
24 that I can I'm happy to do that. I mean we sent her
25 the raw file that contains all of that --

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THE COURT: I know.

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MR. DUFF: So if she knows how to do it, she should be able to do it.

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THE COURT: She's not able to open the raw email --

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MR. DUFF: Well, Your Honor --

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THE COURT: Go ahead.

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MR. DUFF: I'm sorry, Your Honor, go ahead.

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THE COURT: It's all right, go ahead.

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MR. DUFF: Well with respect, she did say that when she tried to open the raw file the mail program started opening, well that's how you open the file, that indicates that she can open the file because it is a mail app file. So if the mail app started opening she can open the file. But because, just that she doesn't know how to do it doesn't mean she can't.

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THE COURT: Right.

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MR. DUFF: But to the extent that she will, if she can explain to me the steps I need to take to turn a PDF, give her a PDF that will resolve this issue for her, I'm happy to do that, even --

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THE COURT: What I'd like you to do, so, obviously there is going to be, all I'm, the reason to make a big deal about this is this is obviously a

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2 seminal document in this case and the authenticity of
3 the sales receipt is going to be something that, you
4 know, maybe you're going to be able to agree, but
5 maybe not. And so the authenticity of the document is
6 important.

7 MR. DUFF: Sure.

8 THE COURT: And what I'm interpreting Ms.
9 Trombetta to be saying is she wants to confirm that
10 the PDF and the raw email that was sent to her are, in
11 fact, the actual authentic documents. And so if you
12 look at exhibit 4 to her letter yesterday, which is
13 ECF number 317, it's a bunch of garbled characters
14 that make no sense to me but I am sure to an IT person
15 they'll say, yes, this is the metadata for an email.
16 And so --

17 MR. DUFF: Your Honor, this is the -- and I'm
18 sorry. I'm sorry, go ahead, I did not mean to
19 interrupt.

20 THE COURT: Sorry, what I'm just trying to get
21 at is that for the raw email that you provided to her,
22 to extract the metadata for that email and produce
23 that to her as a, like a PDF similar to exhibit 4 to
24 her letter --

25 MR. DUFF: Yes. So, Your Honor, I'm looking

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2 at exhibit 4 right now, that is -- that is the email
3 headers, that's what I was talking about earlier.

4 THE COURT: Okay.

5 MR. DUFF: So that I know how to produce, I'm
6 happy to do that, I can do that from the
7 (indiscernible) EML file that we've already given her,
8 I can do that immediately after this conference and I
9 will do that and then hopefully we can put that to
10 bed.

11 I would like to address one more point that
12 Ms. Trombetta (indiscernible), plaintiff said that we
13 have not produced documents, the sales receipts that
14 the buyer has. Well why would, we don't have
15 documents that the buyer has and we can't produce
16 things, we told her many, many times that we cannot
17 produce documents that either do not exist or that are
18 not within our possession, custody or control, those
19 documents are not within our possession, custody and
20 control, and we would have been able to explain that
21 to her, at least try to explain that, had Ms.
22 Trombetta met and conferred with us which she has
23 consistently refused to do. In fact, last Thursday
24 WorthPoint's counsel asked Ms. Trombetta if she would
25 meet and confer with us on Monday of this week to try

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2 to resolve some of these issues so that we wouldn't be
3 wasting so much of the Court's time. Well, Ms.
4 Trombetta responded and said that she couldn't
5 possibly meet any time on Monday but then Monday
6 morning she filed a two page, single spaced letter
7 with the Court, so obviously she had time, she just
8 wasn't willing to meet and confer. And that's just the
9 most recent and one example, one tiny example of the
10 continued bad faith with which Ms. Trombetta is
11 proceeding in this case. And that's all I have to say
12 about that, but I'll happy produce a PDF of the email
13 header for this crucial email. Thank you.

14 THE COURT: Thank you, okay.

15 MR. BIALEK: Your Honor, if I may --

16 THE COURT: Let me just say I read all of your
17 letters. I understand that there is a depth of
18 loathing between the parties here that is almost
19 immeasurable, and I understand that the parties are
20 equally frustrated with where we are in the case. All
21 I care about is getting you to the end of discovery.
22 I'm not, I don't care about who shot John, I don't
23 care about who behaved worse, if and when there is an
24 appropriate time for the defendants' attorneys to be
25 seeking sanctions or (indiscernible), we will address

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2 that. In the meantime, it's not necessary and it is a
3 waste of my time for the parties to be belying each
4 other in writing and letters to me and during
5 conferences with the Court. Today we are talking
6 about what, if there are any remaining categories of
7 documents that either party thinks the other party has
8 and needs to be produced, that's what we're talking
9 about today.

10 So, Ms. --

11 MR. DUFF: My apologies, Your Honor, thank
12 you.

13 THE COURT: It's not necessary to apologize, I
14 just needed to level set the conversation.

15 MR. BIALEK: Your Honor, may I --

16 THE COURT: Go ahead.

17 MR. BIALEK: Sorry. I just wanted to say that
18 I just am sending over to everybody the header
19 information or the source information that was pulled
20 from the email. But to avoid having to come back for
21 another conference, I just want to point out the email
22 that Mr. Duff had sent to us was actually forwarding
23 the original email. So the email that he sent was from
24 2017 and it came from the Novocin's eBay@novocin.com,
25 they had kind of forwarded the email that

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2 eBay@eBay.com had sent to them.

3 So while I just forwarded the source
4 information that she's looking, that Ms. Trombetta is
5 looking for, it's not going to have the source
6 information from that December 1, 2012, email, it
7 would only have it from 2017. So I just want to make
8 sure that everybody is aware of that so we don't have
9 to have another fight over it.

10 THE COURT: Okay. All right, thank you for
11 that clarification. All right, so one way or another,
12 Ms. Trombetta, whether it's from Mr. Bialek
13 momentarily, or from Mr. Duff after this call, you are
14 going to get the information about the eBay sales
15 receipt email that we were just discussing.

16 THE PLAINTIFF: Okay, Your Honor, if I may
17 just say three things. First and foremost, my letter
18 on Monday was filed on Friday evening. Any letters
19 that I wrote that were filed yesterday were written
20 over the weekend. I did, as stated, had appointments,
21 it's a holiday week, I had a lot of things to do.

22 That said, I will go to my Gmail account and
23 if you go, if the email was sent from Gmail you go to
24 the arrow, there's a circle with three dots and it
25 says reply, forward, filter message, you click on show

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2 original and when you click on that what you get is
3 message ID created at, which gives you the date,
4 from/to/subject. Underneath that you get the text of
5 the email and all the coding that goes with it
6 depending on how long the email is.

7 If it's a Yahoo account, then you go to the
8 email, you go to more, you drop down the window and it
9 says raw message. Now when WorthPoint asked me for the
10 metadata, I didn't know how to produce it. But then I
11 went to file, drop down window export PDF, and lo' and
12 behold, it did it, it brought it to my desktop. This
13 is what I put in my filing yesterday. Again, it's a
14 printout of the original email which is what I have
15 from Estate Auctions Inc. in full.

16 Again, in the spring of April it was
17 truncated, on September 21st it was brought to the
18 Novocins' attention, if Mr. Duff did, in fact, include
19 the original or the raw message, it depends on the
20 email platform. Each email platform, Gmail, Outlook,
21 they all have a different system but they all are
22 consistent with being able to reveal and either print
23 out or export to a desktop the original message with
24 the coding and the text of the message. Thank you.

25 THE COURT: Okay. Are there any other